UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,068	01/19/2001	Jeff Scott Eder		6669

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ART UNIT	PAPER NUMBER
3692	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	09/764,068	EDER, JEFF SCOTT
	Examiner	Art Unit	
	Clement B. Graham	3692	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on <u>*10 May 2007*</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *36-74* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *36-74* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 36-74 remained pending.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

Claims 36, 55, 64, 70, are rejected under 35 U.S.C. 101 because the claimed
invention is directed to non-statutory subject matter.

Applicant's claims are directed to an algorithm. Specifically, claims recites "integrating"
"developing", "analyzing" identifying "determining", however these steps are mere ideas
in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply,
involve, for example) and abstract ideas without a practical application are found to be
non-statutory subject matter. Therefore, Applicant's claims are non-statutory as they do
not produce a useful, concrete and tangible result.

Claim Rejections - 35 USC § 112

3   The following is a quotation of the second paragraph of 35 U.S.C. 112:
        The specification shall conclude with one or more claims particularly pointing out and
distinctly claiming the subject matter which the applicant regards as his invention.

4.   Claims 36, 55, 64, 70, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for
failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
        In particular, Claims 36, 46, 55, 64, 70, recites the words [" enterprise related transacted
data, at least some data, net relative contribution, using at least a portion of said data,"].
However this language fails to distinctly claim Applicant's invention because the scope of the
claim is unclear. Because these terms does not describes the data. Moreover the specification
fails to clarify, the meaning of the limitations. Appropriate correction is required.

        In particular, Claims 46, recites [" determining a net relative contribution for each element
of value, and further states calculating a value for each element of value using said
contributions, What contributions the relative one or just contributions?-----"].
However this language fails to distinctly claim Applicant's invention because the scope of the

claim is unclear Because these terms does not describes the data. Moreover the specification

fails to clarify, the meaning of the limitations. Appropriate correction is required.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 36-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Marshall . U.S Patent 6, 073, 115 in view of Krishnaswamy et al(Hereinafter Krishnaswamy U.

S. Patent 6, 909, 708.

As per claims 36-45, Marshall discloses an enterprise method, comprising:

integrating transaction data related to a commercial enterprise in accordance with a

common schema, and

developing a model of enterprise market value by element and category of value by

completing a series of multivariate analyses that utilize at least a portion of said data where

the categories of value are selected from the group consisting of current operation, real

option, market sentiment and combinations thereof.(see column 3 lines 43-67 and column

4 lines 1-67 and column 5 lines 1-31).

Marshall fail to explicitly teach where the elements of value are selected from the group

consisting of alliances, brands, channels, customers, customer relationships, employees,

intellectual property, partnerships, processes, vendors and vendor relationships and

combinations thereof.

However Krishnaswamy discloses in addition to the above mentioned

components, a set of additional components are also architected into the MCI Intelligent

Network. These components are: Intelligent Call Routing (ICR) services are offered for

specialized call routing based on information obtained from the calling party either

during the call or at an earlier time. Routing is also based on the knowledge of the

physical and logical network layout. Additional intelligent routing services based on time of day, alternate routing based on busy routes are also offered. Billing is a key component of the MCI Intelligent Network. The billing component provides services for customer billing based on call type and call duration. Specialized billing services are additionally provided for value added services like the 800 Collect calls. Fraud Monitoring component is a key component of the MCI Intelligent Network providing services for preventing loss of revenue due to fraud and illegal usage of the network. Operational Measurements include information gathering for analysis of product performance. Analysis of response to advertising campaigns, calling patterns resulting in specialized reports result from operational measurements. Information gathered is also used for future product planning and predicting infrastructure requirements. Usage Statistics Reporting includes gathering information from operational databases and billing information to generate reports of usage. The usage statistics reports are used to study call patterns, load patterns and also demographic information. These reports are used for future product plans and marketing input.(see column 20 lines 65 and column221 lines –222lines 1-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Marshall to include where the elements of value are selected from the group consisting of alliances, brands, channels, customers, customer relationships, employees, intellectual property, partnerships, processes, vendors and vendor relationships and combinations thereof taught by Krishnaswamy in order to manage financial debt instruments designed for investors whose objective is to track the performance of certain security markets within a limited period of time. More particularly, the invention relates to an integrated financial management system for implementing investor participation in domestic and foreign capital markets through positions in indexed vehicles which are packaged as debt instruments.

As per claims 46-54, Marshall discloses a program storage device readable by machine, tangibly embodying a program of instructions executable by a machine to perform method steps for performing an element method, the method steps comprising:

integrating enterprise transaction data in accordance with a common model or schema,

analyzing at least a portion of the data using a neural network model to identify one or more indirect indicators of value for each element of value by category of value where the categories of value are selected from the group consisting of current operation, real option, market sentiment' and combinations thereof.(see column 3 lines 43-67 and column 4 lines 1-67 and column 5 lines 1-31 and column 20-23 lines 1-60).

Marshall fail to explicitly teach determining a net relative contribution for each element to each category of value by modeling enterprise financial performance with said indirect indicators by category and element of value, calculating a value for each element of value using said contributions, and reporting the element values using an electronic display or a paper document.

However Krishnaswamy discloses in addition to the above mentioned components, a set of additional components are also architected into the MCI Intelligent Network. These components are: Intelligent Call Routing (ICR) services are offered for specialized call routing based on information obtained from the calling party either during the call or at an earlier time. Routing is also based on the knowledge of the physical and logical network layout. Additional intelligent routing services based on time of day, alternate routing based on busy routes are also offered. Billing is a key component of the MCI Intelligent Network. The billing component provides services for customer billing based on call type and call duration. Specialized billing services are additionally provided for value added services like the 800 Collect calls. Fraud Monitoring component is a key component of the MCI Intelligent Network providing services for preventing loss of revenue due to fraud and illegal usage of the network. Operational Measurements include information gathering for analysis of product performance. Analysis of response to advertising campaigns, calling patterns resulting in specialized reports result from operational measurements. Information gathered is

also used for future product planning and predicting infrastructure requirements. Usage Statistics Reporting includes gathering information from operational databases and billing information to generate reports of usage. The usage statistics reports are used to study call patterns, load patterns and also demographic information. These reports are used for future product plans and marketing input.(see column 20 lines 65 and column221 lines –222lines 1-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Marshall to determining a net relative contribution for each element to each category of value by modeling enterprise financial performance with said indirect indicators by category and element of value, calculating a value for each element of value using said contributions, and reporting the element values using an electronic display or a paper document taught by Krishnaswamy in order to manage financial debt instruments designed for investors whose objective is to track the performance of certain security markets within a limited period of time. More particularly, the invention relates to an integrated financial management system for implementing investor participation in domestic and foreign capital markets through positions in indexed vehicles which are packaged as debt instruments.

As per claims 55-63, Marshall discloses a future market value method, comprising:

integrating enterprise related data in accordance with a common model or schema,

developing a causal model of net element contribution to enterprise market value by category of value using at least a portion of said data, and

identifying one or more element related changes that will optimize a future market value portion of enterprise market value by analyzing said model. (see column 3 lines 43-67 and column 4 lines 1-67 and column 5 lines 1-31 and column 20-23 lines 1-60).

As per claims 64-69, Marshall discloses a composite application method, comprising: using two or more independent components of application software to produce one or more useful results by processing enterprise related data where said enterprise related data has been integrated from two or more enterprise management systems in accordance with a

common model or schema defined by an xml metadata standard. (see column 3 lines 43-67 and column 4 lines 1-67 and column 5 lines 1-31 and column 20-23 lines 1-60).

As per claim 71, Marshall discloses where each of one or more tables in an application database further comprise one axis that is defined by one or more time periods that require data and another axis that is defined by one or more data categories selected from the.group consisting of components of value, sub components of value, known value drivers, elements of value, non-relevant attributes and combinations thereof.

As per claim 70, Marshall discloses a data processing method, comprising:
Integrating, converting and storing enterprise related transaction data in accordance with a common xml schema to support organization processing
where a set of integration and conversion rules are established using a metadata and conversion rules window and saved in metadata mapping table, where some data are pre-specified for integration and conversion, where the common schema further comprises a network schema that is defined by an xml metadata see column 3 lines 43-67 and column 4 lines 1-67 and column 5 lines 1-31 and column 20-23 lines 1-60).

As per claims 72, Marshall discloses a market value accounting method, comprising:

preparing a plurality of enterprise related data for use in processing,

analyzing the data with a series of models as required to identify a tangible contribution of each of one or more elements of value to each of one or more categories of value where the categories of value further comprise a current operation category of value and a category of value selected from the group consisting of real option, market sentiment and combinations thereof,

using the tangible contribution for each element of value to identify a value for each element of value. metadata see column 3 lines 43-67 and column 4 lines 1-67 and column 5 lines 1-31 and column 20-23 lines 1-60).

Marshall fail to explicitly teach reporting the value of each element of value in a balance sheet format where the elements of value are customers and elements of value selected from the group consisting of alliances, brands, channels, employees, intellectual property, partnerships, processes, vendors and vendor relationships and combinations thereof.

However Krishnaswamy discloses in addition to the above mentioned components, a set of additional components are also architected into the MCI Intelligent Network. These components are: Intelligent Call Routing (ICR) services are offered for specialized call routing based on information obtained from the calling party either during the call or at an earlier time. Routing is also based on the knowledge of the physical and logical network layout. Additional intelligent routing services based on time of day, alternate routing based on busy routes are also offered. Billing is a key component of the MCI Intelligent Network. The billing component provides services for customer billing based on call type and call duration. Specialized billing services are additionally provided for value added services like the 800 Collect calls. Fraud Monitoring component is a key component of the MCI Intelligent Network providing services for preventing loss of revenue due to fraud and illegal usage of the network. Operational Measurements include information gathering for analysis of product performance. Analysis of response to advertising campaigns, calling patterns resulting in specialized reports result from operational measurements. Information gathered is also used for future product planning and predicting infrastructure requirements. Usage Statistics Reporting includes gathering information from operational databases and billing information to generate reports of usage. The usage statistics reports are used to study call patterns, load patterns and also demographic information. These reports are used for future product plans and marketing input.(see column 20 lines 65 and column221 lines –222lines 1-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Marshall to include reporting the value of each element of value in a balance sheet format where the elements of value

are customers and elements of value selected from the group consisting of alliances, brands, channels, employees, intellectual property, partnerships, processes, vendors and vendor relationships and combinations thereof taught by Krishnaswamy in order to manage financial debt instruments designed for investors whose objective is to track the performance of certain security markets within a limited period of time. More particularly, the invention relates to an integrated financial management system for implementing investor participation in domestic and foreign capital markets through positions in indexed vehicles which are packaged as debt instruments.

As per claims 73, Marshall discloses further comprising including a value for a plurality of financial assets in a report with a balance sheet format. (see column 3 lines 43-67 and column 4 lines 1-67 and column 5 lines 1-31).

As per claims 74, Marshall discloses further comprises:

tracking a change in a value of each of one or more elements of value over time, and including the calculated changes in value of each element of value in an income statement or a cash flow statement. (see column 3 lines 43-67 and column 4 lines 1-67 and column 5 lines 1-31).

Conclusion

Response to arguments

7   Applicant's arguments filed 10/21/2006 has been considered but they are moot in view of new grounds of rejections.

In response to Applicant's arguments Marshall and Krishnaswamy fail to teach or suggest" integrating transaction data related to a commercial enterprise in accordance with a common schema, and developing a model of enterprise market value by element and category of value by completing a series of multivariate analyses that utilize at least a portion of said data where the categories of value are selected from the group consisting of current operation, real option, market sentiment and combinations thereof where the elements of value are selected from the group consisting of alliances, brands, channels, customers, customer relationships, employees, intellectual property, partnerships,

processes, vendors and vendor relationships and combinations thereof and a program storage device readable by machine, tangibly embodying a program of instructions executable by a machine to perform method steps for performing an element method, the method steps comprising, integrating enterprise transaction data in accordance with a common model or schema, analyzing at least a portion of the data using a neural network model to identify one or more indirect indicators of value for each element of value by category of value where the categories of value are selected from the group consisting of current operation, real option, market sentiment' and combinations thereof" the Examiner disagrees with Applicant' because these limitations were addressed at stated.

Marshall teaches integrating transaction data related to a commercial enterprise in accordance with a common schema, and

developing a model of enterprise market value by element and category of value by completing a series of multivariate analyses that utilize at least a portion of said data where the categories of value are selected from the group consisting of current operation, real option, market sentiment and combinations thereof.(see column 3 lines 43-67 and column 4 lines 1-67 and column 5 lines 1-31).

Krishnaswamy discloses in addition to the above mentioned components, a set of additional components are also architected into the MCI Intelligent Network. These components are: Intelligent Call Routing (ICR) services are offered for specialized call routing based on information obtained from the calling party either during the call or at an earlier time. Routing is also based on the knowledge of the physical and logical network layout. Additional intelligent routing services based on time of day, alternate routing based on busy routes are also offered. Billing is a key component of the MCI Intelligent Network. The billing component provides services for customer billing based on call type and call duration. Specialized billing services are additionally provided for value added services like the 800 Collect calls. Fraud Monitoring component is a key component of the MCI Intelligent Network providing services for preventing loss of revenue due to fraud and illegal usage of the network. Operational Measurements include information gathering for analysis of product performance. Analysis of response

to advertising campaigns, calling patterns resulting in specialized reports result from operational measurements. Information gathered is also used for future product planning and predicting infrastructure requirements. Usage Statistics Reporting includes gathering information from operational databases and billing information to generate reports of usage. The usage statistics reports are used to study call patterns, load patterns and also demographic information. These reports are used for future product plans and marketing input.(see column 20 lines 65 and column221 lines –222lines 1-67).

Therefore it is obviously clear that Applicant's claimer limitations were addressed with the teachings of Marshall and Krishnaswamy.

8.   Applicant also maintains Marshall and Krishnaswamy cannot be combined, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071,5 USPQ2d 1596 (Fed. Cir. 1988) and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

The rationale to modify or combine the prior art does not have to be expressly stated in the prior art; the rationale may be expressly or impliedly contained in the prior art or it may be reasoned from knowledge generally available to one of ordinary skill in the art, established scientific principles, or legal precedent established by prior case law. In re Fine, 837 F.2d 1071, 5USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). See also In re Eli Lilli & Co., 902 F.2d 943, 14 USPQ2d 1741 (Fed. Cir. 1990) (discussion of reliance on legal precedent); In re Nilssen, 851 F.2d 1401, 7USPQ2d 1500 (Fed. Cir. 1988) (references do not have to explicitly suggest combining teachings); Ex parte Clapp, 227 USPQ 972 (Bd. Pat. App & Inter); and Es parte

Levengood, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993) (reliance on logic and sound scientific reasoning).

Also in reference to Ex parte Levengood, 28 USPQ2d, 1301, the court stated that "Obviousness is a legal conclusion, the determination of which is a question of patent law.

Motivation for combining the teachings of the various references need not to explicitly found in the reference themselves, In re Keller, 642 F.2d 413, 208USPQ 871 (CCPA 1981). Indeed, the Examiner may provide an explanation based on logic and sound scientific reasoning that will support a holding of obviousness. In re Soli, 317 F.2d 941 137 USPQ 797 (CCPA 1963)."

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 571-272-6795. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

Aug 11, 2007

FRANTZY POINVIL
PRIMARY EXAMINER
Au 3692